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Senate Bill _____
By _____

House No. HB1735
By Kernell

AN ACT to amend Tennessee Code Annotated, Title 2, Chapter 10; Title 3, Chapter 6 and Title 8, Chapter 50, Part 1, to enact the Comprehensive Ethics Reform Act of 1995.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 2, Chapter 10, is amended by adding the following as a new part 3:

SECTION 2-10-301.

(a) This part shall be known and may be cited as the "Campaign Contribution Limits Act of 1995."

(b) The registry of election finance shall have the jurisdiction to administer and enforce the provisions of this part.

SECTION 2-10-302.

(a) No person or multicandidate political campaign committee shall make contributions to any candidate with respect to any election for state or local public office which, in the aggregate, exceed one thousand dollars (\$1,000) per election.

(b) The following aggregate limits for each election shall be imposed on campaign contributions received by each candidate for the following offices from multicandidate political campaign committees:

- (1) House of Representatives of the General Assembly....\$20,000
- (2) Senate of the General Assembly.....\$40,000
- (3) Public Service Commission.....\$75,000
- (4) Governor.....\$500,000.

For the purpose of the aggregate limits established by this subsection, contributions made to the candidates by political campaign committees controlled by a political party on the national, state, or local level or by a caucus of such political party established by members of either house of the general assembly shall not be counted.

(c) If a candidate makes a contribution to his or her campaign in excess of the limits established in subsection (a), the candidate shall report each such contribution to the registry of election finance and to each county election commission in the district or in the state in the case of statewide offices. The candidate shall file the report by hand delivery or registered mail within forty eight (48) hours of making such contribution.

SECTION 2-10-303. For purposes of the limitations contained in this part:

(a) Contributions made to any political campaign committee authorized by a candidate to accept contributions on the candidate's behalf shall be considered to be contributions made to such candidate;

(b) Contributions made by a political campaign committee authorized by a candidate to make expenditures on the candidate's behalf shall be considered contributions made by such candidate;

(c) All contributions made by a person, either directly or indirectly, on behalf of a particular candidate, including contributions which are in any way earmarked or otherwise directed through an intermediary or conduit to such candidate, shall be treated as contributions from such person to such candidate. The intermediary or conduit shall report the original source and the intended recipient of such contribution to the registry of election finance and to the intended recipient;

(d) All contributions made by affiliated political campaign committees shall be considered to have been made by a single committee; and

(e) Expenditures made by any person in cooperation, consultation, or concert with, or at the request or suggestion of, a candidate, the candidate's political campaign committees, or their agents, shall be considered to be a contribution to such candidate. For purposes of this subsection, the financing by any person of the dissemination, distribution, or republication, in whole or in part, of any broadcast or any written, graphic, or other form of campaign materials prepared by the candidate, the candidate's political campaign committees, or their authorized agents shall be considered to be an expenditure.

SECTION 2-10-304.

(a) The limitations contained in this part shall not apply to any loan of money by a financial institution as defined in Section 45-10-102(3) that:

(1) Is made in accordance with applicable law and in the ordinary course of business;

(2) Is made on a basis reasonably designated to assure repayment, evidenced by a written instrument, and subject to a payment due date or amortization schedule; and

(3) Bears the usual and customary interest rate of the lending institution.

(b) An endorsement or guaranty of a loan made pursuant to subsection (a) shall be considered a contribution in the amount of the endorsement or guaranty and shall be subject to the limitations contained in this part. Where the written instrument does not specify the portion of the loan for which the endorser or guarantor is liable, each endorser or guarantor shall be considered to have made a contribution in that proportion of the unpaid balance that each endorser or guarantor bears to the total number of endorsers or guarantors.

SECTION 2-10-305. The limits contained in this part shall not apply to:

(a) The retention of funds by a candidate pursuant to Section 2-10-114(a)(1);

(b) The transfer of funds by a candidate pursuant to Section 2-10-114(a)(1) to a campaign fund of the same candidate for election to a different state or local public office; or

(c) The transfer of funds by a candidate for election to a federal office to a campaign fund of the same candidate for election to a state or local public office.

SECTION 2-10-306.

(a) All contributions made by political campaign committees controlled by a political party on the national, state, or local level or by a caucus of such political party established by members of either house of the general assembly shall be considered to have been made by a single committee. Such contributions shall not, in the aggregate, exceed:

(1) Ten thousand dollars (\$10,000) per election to any candidate for the general assembly or any other state or local public office not listed below.

(2) One hundred thousand dollars (\$100,000) per election to any candidate for the public service commission.

(3) Two hundred fifty thousand dollars (\$250,000) per election to any candidate for governor.

(b) For purposes of this section contributions shall not include:

(1) Payment of the costs of preparation, display or mailing or other distribution with respect to printed slate cards, sample ballots, palm cards, or other printed listings of three (3) or more candidates who are opposed for election. This exemption shall not apply to costs incurred

with respect to the preparation and display of listings made on broadcasting stations or in newspapers, magazines and similar types of general public political advertising such as billboards;

(2) Payment of the costs of voter registration and get-out-the-vote activities conducted by party committees, unless the payments are made on behalf of a clearly identified candidate and the payment can be directly attributed to that candidate;

(3) Expenditures for rent, personnel, overhead, general administrative, fundraising, and other day-to-day costs of party committees, unless the expenditures are made on behalf of a clearly identified candidate and the expenditure can be directly attributed to that candidate;

(4) Expenditures for education campaign seminars and for training of campaign workers, unless the expenditures are made on behalf of a clearly identified candidate and the expenditure can be directly attributed to that candidate; or

(5) Expenditures for polling and research work.

(c) The limits imposed by this section include expenditures by a political party or a caucus of such party for negative campaigning with or without the candidate's approval when such negative campaigning is directed against a candidate's opponent.

SECTION 2-10-307.

(a) No candidate or political campaign committee shall accept any contribution or make any expenditure in violation of the provisions of this part. No officer or employee of a political campaign committee shall accept a contribution made for the benefit or use of a candidate, or make any expenditure on behalf of a candidate, in violation of any limitation imposed on contributions and expenditures under this section.

(b) A contribution made or accepted in excess of the limitations established by this part shall not be a violation of the part if the candidate or the political campaign committee returns or refunds the contribution to the person who made the contribution within ten (10) days of the candidate's or committee's receipt of the contribution.

SECTION 2-10-308.

(a) The registry of election finance may impose a maximum civil penalty for a violation of this part of one hundred fifty percent (150%) of the amount of all contributions made or accepted in excess of the limitations established by this part.

(b) Penalties imposed under this part shall be deposited into the state general fund.

(c) To request a waiver or reduction or in any way to contest a penalty imposed by the staff of the registry, a person shall file a petition with the registry. Such petition shall be considered as a contested case proceeding under the Uniform Administrative Procedures Act, compiled in Title 4, Chapter 5.

(d) If a civil penalty lawfully assessed against a candidate is not paid within thirty (30) days after the assessment becomes final, the candidate shall be ineligible to qualify for election to any state or local public office until such penalty is paid.

SECTION 2-10-309. In determining issues arising in regard to this act, the registry may rely on the precedents established under the federal law.

SECTION 2. Tennessee Code Annotated, Section 2-10-102, is amended by deleting the fifth word in the section, "part", and substituting in its place the word "chapter".

SECTION 3. Tennessee Code Annotated, Section 2-10-102, is amended by adding the following new subdivisions to be appropriately designated:

() "Affiliated political campaign committees" means political campaign committees established, financed, maintained, or controlled by any corporation, labor organization, or any other person, including any parent, subsidiary, branch, division,

department, or local unit of such corporation, labor organization, or any other person, or by any group of such persons.

(A) All committees established, financed, maintained or controlled by a single corporation and/or its subsidiaries shall be affiliated political campaign committees.

(B) All committees established, financed, maintained or controlled by a single national or international union and/or its local unions or other subordinate organizations shall be affiliated political campaign committees.

(C) All committees established, financed, maintained or controlled by an organization of national or international unions and/or all its state and the local central bodies shall be affiliated political campaign committees, but such committees shall not be affiliated with the political campaign committees established, financed, maintained or controlled by any union that is a member of the organization.

(D) All committees established, financed, maintained or controlled by a membership organization, other than political party committees, including trade or professional associations and/or related state and local entities of that organization or group shall be affiliated political campaign committees.

(E) All committees established, financed, maintained or controlled by the same person or group of persons shall be affiliated political campaign committees.

(F) Owners, officers, employees, members or other individuals associated with any corporation, labor organization, membership organization, or any other person or group of persons that has established, financed, maintained or controlled a political campaign committee shall not be considered affiliated with such political campaign committee.

() "Personal funds" means:

(A) Any assets which the candidate had legal right of access to or control over at the time he or she became a candidate and with respect to which the candidate had either (i) legal and rightful title, or (ii) an equitable interest;

(B) Salary and other earned income from bona fide employment; dividends and proceeds from the sale of the candidate's stocks or other investments; bequests to the candidate; income from trusts established before candidacy; income from trusts established by bequest after candidacy of which the candidate is the beneficiary; gifts of a personal nature which had been customarily received prior to candidacy; and

(C) That portion of assets jointly owned with the candidate's spouse which is the candidate's share under the instruments of conveyance or ownership. If no specific share is indicated by such instrument, the value of one-half of the property used shall be considered as personal funds.

SECTION 4. Tennessee Code Annotated, Section 2-10-205, is amended by deleting the word "and" at the end of subsection (2), by deleting the period at the end of subsection (3) and substituting in its place the punctuation and word "; and", and by adding the following as a new subsection:

(4) The "Campaign Contribution Limits Law," compiled in part 3 of this chapter.

SECTION 5. Tennessee Code Annotated, Section 2-10-207(1), is amended by deleting the word "part" and by substituting instead the word "chapter".

SECTION 6. Tennessee Code Annotated, Section 2-10-207(7), is amended by deleting the word "and" between the words "chapter 6" and the word "the" and by adding between the words "part 5" and the semicolon the words "and the Campaign Contribution Limits Act, compiled in part 3 of this chapter".

SECTION 7. Tennessee Code Annotated, Section 2-10-207(3), is amended by deleting the language “the appropriate disclosure statutes” and by substituting instead the language “this chapter and the Conflict of Interest Disclosure Law, compiled in Title 8, Chapter 50, Part 5”.

SECTION 8. Tennessee Code Annotated, Section 2-10-105(h)(1)(A), is amended by deleting from the first sentence the words “full name and address” and substituting instead the words “full name, address, occupation and employer”.

SECTION 9. Tennessee Code Annotated, Section 2-10-107(a)(2)(A)(i), is amended by deleting from the first sentence the words “full name and complete address” and substituting instead the words “full name, complete address, occupation and employer”.

SECTION 10. Tennessee Code Annotated, Section 2-10-107(a)(2)(B)(i), is amended by deleting from the first sentence the words “full name and address” and substituting instead the words “full name, address, occupation and employer”.

SECTION 11. Tennessee Code Annotated, Section 2-10-107(c)(1)(B), is amended by deleting from the first sentence the words “name and address” and substituting instead the words “name, address, occupation and employer”.

SECTION 12. Tennessee Code Annotated, Title 8, Chapter 50, Part 1, is amended by adding the following new section:

(a) An official or employee of the state may not solicit any gift. No official or employee may knowingly accept any gift, directly or indirectly, from any person whom the official or employee knows or has reason to know:

(1) Is doing or seeking to do business of any kind with his or her agency;

or

(2) Is engaged in activities which are regulated or controlled by his or her agency; or

(3) Has a financial interest which may be substantially and materially affected, in a manner distinguishable from the public generally, by the performance or nonperformance of his or her official duties.

(b) Notwithstanding the provisions of subsection (a) of this section, a person who is a public official or public employee may accept a gift described in this subsection. There shall be a presumption that the receipt of such gift does not impair the impartiality and independent judgment of the person. This presumption may be rebutted only by direct objective evidence that the gift did impair the impartiality and independent judgment of the person or that the person knew or had reason to know that the gift was offered with the intent to impair his or her impartiality and independent judgment. The provisions of subsection (a) of this section do not apply to:

(1) Meals and beverages;

(2) Ceremonial awards which have insignificant monetary value; the cost of such award shall not be greater than the value of the award when given to other recipients who are not officials or employees of the state;

(3) Unsolicited items of nominal value or trivial items of information value;

(4) Reasonable expenses for food, in-state travel, and lodging of the official or employee for a meeting at which the official or employee participates in a panel or speaking engagement at the meeting;

(5) Tickets or free admission extended to a public official or employee to attend charitable, cultural, athletic or political events, if the purpose of such gift or admission is a courtesy or ceremony customarily extended to the office;

(6) Travel expenses or reimbursement thereof, that are purely private and personal in nature;

(7) Travel expenses or reimbursement thereof, from relatives by blood or marriage or a member of the same household; or

(8) Travel, lodging or per diem expenses which are provided or made available to a class of state officers or employees of which that officer or employee is a member;

(9) Expenses for out-of-state travel, if such travel is paid for, reimbursed, or sponsored by a government or an association of elected government officials or a 501(c) tax exempt organization or any other group or association which is an umbrella organization for public officials;

(c) A permissible gift under this section does not preclude the duty of a lobbyist to make the required reports under Tennessee Code Annotated, Title 3, Chapter 6.

(d) For the purposes of this section, "Gift" does not include a political contribution otherwise reported as required by law or commercially reasonable loan made in the ordinary course of business.

SECTION 13. Tennessee Code Annotated, Section 2-10-105(c)(1), is amended by deleting the first sentence and substituting instead the following:

The first pre-election report for a primary or referendum shall cover the period from the date the first expenditure was made through the fifth day before the beginning of the early voting period. A candidate or committee shall file the first pre-election report not later than the third day before the beginning of the early voting period. The second pre-election report for a primary or referendum shall cover the period from the fifth day before the beginning of the early voting period through the tenth day before the election. A candidate or committee shall file the second pre-election report not later than the seventh day before the election.

SECTION 14. Tennessee Code Annotated, Section 2-10-105(c)(2), is amended by deleting subdivision (A) in its entirety and by substituting instead the following:

From and including the first day an expenditure was made;

SECTION 15. Tennessee Code Annotated, Section 2-10-105(c)(2) , is amended by deleting subdivision (B) and substituting instead the following:

(B) From the last day included in any prior report, whichever is later, through the fifth day before the beginning of the early voting period. A candidate or committee shall file the first pre-election report not later than the third day before the beginning of the

early voting period. The second pre-election report for a general election or referendum shall cover the period from the fifth day before the beginning of the early voting period through the tenth day before the election. A candidate or committee shall file the second pre-election report not later than the seventh day before the election.

SECTION 16. Tennessee Code Annotated, Section 2-10-105(c), is amended by deleting subdivision (3) and substituting instead the following:

The first pre-election report for a runoff election shall cover the period from the date the first expenditure was made through the fifth day before the beginning of the early voting period. A candidate or committee shall file the first pre-election report not later than the third day before the beginning of the early voting period. The second pre-election report for a runoff election shall cover the period from the fifth day before the beginning of the early voting period through the tenth day before the election. A candidate or committee shall file the second pre-election report not later than the seventh day before the election.

SECTION 17. This act shall be known and may be cited as the "Comprehensive Ethics Reform Act of 1995".

SECTION 18. If any provision of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to that end the provisions of this act are declared to be severable.

SECTION 19. This act shall take effect upon becoming a law, the public welfare requiring it, and shall only apply to contributions or expenditures made after that date.

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